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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,522	08/29/2001	Wolf-Dietrich Bebenroth	GK-EIS-1044 / 500593.2003	9625
HENDRICUS G. LOOS 3019 CRESTA WAY LAGUNA BEACH, CA 92651				

EXAMINER FAULK, DEVONA E	
ART UNIT 2644	PAPER NUMBER

DATE MAILED: 11/17/2003

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DEC 03 2003

Technology Center 2600

Please find below and/or attached an Office communication concerning this application or proceeding.

Handwritten: I mailed on 12-10-03



US PATENT AND TRADEMARK OFFICE
TECHNOLOGY CENTER
CUSTOMER SERVICE OFFICE
FAX 703-872-9314

11/20/03

RE: APPLICATION 09/942522 ERROR IN YOUR FILE

THIS IS TO INFORM YOU THAT THE CORRESPONDENCE NAME AND ADDRESS FOR SUBJECT CASE AS SHOWN ABOVE ARE IN ERROR.

THE OFFICE ACTION, PAPER #6, WITH THE DATA SHOWN ABOVE. HAS BEEN MISDIRECTED TO ME.

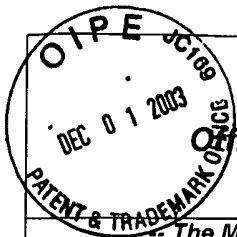
I HAVE NOTHING WHATSOEVER TO DO WITH THIS CASE.

PLEASE CORRECT YOUR FILES APPROPRIATELY.

THE OFFICE ACTION WILL BE RETURNED TO SENDER THROUGH USMAIL.

HENDRICUS G. LOOS
3019 CRESTA WAY
LAGUNA BEACH, CA 92651

TEL.: 760-728-8767
FAX: 949-497-8028



Office Action Summary

Application No.

09/942,522

Applicant(s)

BEBENROTH, WOLF-DIETRICH

Examiner

Devona E. Faulk

Art Unit

2644

The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09942522.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Neuman et al. (U. S. Patent 5,642,426).

Regarding claim 1, Neuman discloses an integral radio and infrared assistive listening device comprising a base housing (11) constructed and arranged to support a decoder means (102), a FM radio receiver (14), replaceable power source (13), and a volume control (12) enclosed in the housing (See Figure 1). The user would have to touch it to activate it and so this reads on “comprising that the housing has a cover which is in the form of an actuation element of the circuit. It is inherent that a circuit is present. It is interpreted, for this and all subsequent claims, that Neuman’s housing and the cover are the same. Therefore Neuman anticipates all elements of claim 1.

Claim 2 claims the circuit housing of claim 1 wherein said cover is rotatable in the form of a rotary regulator, for regulation of the volume, about an axis member mounted in the housing. As stated above apropos of claim 1 Neuman anticipates all elements of that claim. Therefore, Neuman anticipates all elements of claim 2 with the exception of the cover being rotatable in the form of a rotary regulator, for regulation of the volume, about an axis member mounted in the housing. As stated above apropos of claim 1, Neuman teaches of a volume

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control but he does not indicated whether it is rotatable about an axis or not. However, volume controls that are rotatable on headsets are well known in the art and thus it is interpreted that the volume control is in the form of a rotary regulator, rotatable about an axis member mounted in the housing. Therefore, Neuman anticipates all elements of claim 2.

Claim 7 claims the circuit housing of claim 1 wherein said cover is transmissive for infrared rays. As stated above apropos of claim 1 Neuman anticipates all elements of that claim. Therefore, Neuman anticipates all elements of claim 2 with the exception of the cover being transmissive for infrared rays. Neuman further teaches the front wall (17; Figure 1) is apertured in front of a position occupied by either the infrared or FM radio receiver (14) so as to enable the latter to be exposed to a source of radiant energy. Therefore, Neuman anticipates all elements of claim 7.

Claim 8 claims the circuit housing of claim 1, wherein provided on the outside of the housing is at least one further actuating element of the circuit. As stated above apropos of claim 1, Neuman anticipates all elements of that claim. Therefore, Neuman anticipates all elements of claim 8 with the exception of at least one further actuating element of the circuit provided on the outside of the housing. Neuman further teaches of a selector switch (10, Figure 5) and an on/off switch (20, Figure 5), and of an IR receiver (8, Figure 5), which inherently would be disposed on the outside of the housing. Therefore, Neuman anticipates all elements of claim 8.

Claim 9 claims the circuit housing of claim 8, wherein said further actuating element is a button. As stated above apropos of claim 8, Neuman anticipates all elements of that claim. Therefore, Neuman anticipates all elements of claim 9 with the exception of the actuating

element being a button. Neuman's Figure 5 indicates that both the selector switch (10) and the on/off switch are buttons. Therefore, Neuman anticipates all elements of claim 9.

Claim 10 claims the circuit housing of claim 8 wherein said actuating element is arranged in a recess at the outside of the housing. As stated above apropos of claim 8, Neuman anticipates all elements of that claim. Therefore, Neuman anticipates all elements of claim 10 with the exception that the actuating element is arranged in a recess at the outside of the housing. It is inherent that the additional actuating elements have to be arranged in a recess at the outside of the housing. Therefore, Neuman anticipates all elements of claim 10.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3,5,6,and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neuman et al. (U. S. Patent 5,642,426).

Claim 3 claims the circuit housing of claim 1 wherein said cover has a scale, which cooperates with a marking on the housing. As stated above apropos of claim 1 Neuman meets all elements of claim 3. Therefore, Neuman meets all elements of claim 3 with the exception of the cover having a scale, which cooperates with a marking on the housing. Neuman discloses a volume control and it is well known in the art that volume control features of a headset has an

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associated scale so that the user can determine which direction will turn the volume up and which direction will turn the volume down. Therefore, it is obvious that some sort of scale associated with the volume control. Since Neuman's housing is functioning as the cover, it is obvious that the cover will have a scale that cooperates with a marking on the housing. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Neuman's volume control, with an associated scale, for the benefit of giving the user the option of turning the volume up or down.

Claim 5 claims the circuit housing of claim 1 wherein said housing is circular-cylindrical. As stated above apropos of claim 1 Neuman meets all elements of claim 1. Therefore, Neuman meets all elements of claim 5 with the exception of the housing having a circular-cylindrical shape. The shape of Neuman's housing is showed in Figure 5. Although it is not exactly circular-cylindrical, it is obvious that the housing shape can be whatever or however one desires it to be. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention make the housing circular-cylindrical for the benefit of having a better looking housing.

Claim 6 claims the circuit housing of claim 1 wherein said cover is circular. As stated above apropos of claim 1 Neuman meets all elements of claim 1. Therefore, Neuman meets all elements of claim 5 with the exception of the cover having a circular shape. It would have been obvious to one or ordinary skill in the art at the time of the invention to make the cover the same shape as the housing for the benefit of having the cover fit the over the circuit nicely.

Claim 11 claims the circuit housing of claim 8 wherein said further actuating element is arranged at the rear side of the housing, which is in opposite relationship to the cover. As stated

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above apropos of claim 8, Neuman meets all elements of claim 11. Therefore, Neuman meets all elements of claim 5 with the exception of the further actuating element being arranged at the rear side of the housing which is in opposite relationship to the cover. It is obvious that all of the actuating elements would not be on the front cover, just for the sake of the headset having a nice look and not looking crowded on the front side. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to place at least one other actuating element on the rear side of the housing for the benefit of having a better looking headset.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neuman et al. (U.S. Patent 5,642,426) in view of Taylor (RE. 34,236).

Claim 4 claims the circuit housing of claim 1 wherein said cover is connected to a potentiometer of the circuit by a slipping clutch. As stated above apropos of claim 1, Neuman meets all elements of that claim. Therefore, Neuman meets all elements of claim 4 with the exception of the cover being connected to a potentiometer of the circuit by a slipping clutch. Taylor discloses a pneumatic headphone comprising a voltage adjustment potentiometer (50). It is obvious that there is something that enables the volume to be adjusted in Neuman's headset. It is equally obvious that element would have to be connected to the cover because Neuman's volume control is on the cover. A clutch is defined as a device for gripping or holding. It is obvious there would have to be a device to hold the element that allows the volume to be adjusted to the cover. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Taylor's voltage adjustment potentiometer, connected to the cover for the benefit of enabling the user to adjust the volume, as he or she would like.

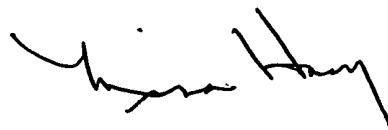
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 703-305-4359. The examiner can normally be reached on 8 am - 5 pm.

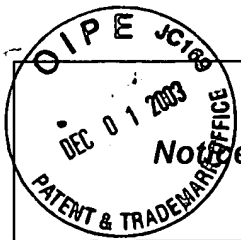
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



DF

**MINSUN OH HARVEY
PRIMARY EXAMINER**



Notice of References Cited

Application/Control No.

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Applicant(s)/Patent Under

Reexamination

BEBENROTH, WOLF-DIETRICH

Examiner

Devona E. Faulk

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Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,642,426	06-1997	Neuman et al.	381/312
	B	US-RE34,236	04-1993	Taylor, Jefferson H.	381/311
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



**Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01**

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes **incorporated** therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

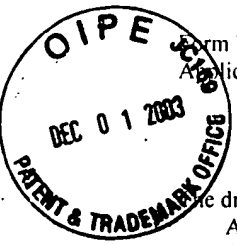
2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.



Form PTO-948 (Rev. 03/03)
Application No. 09/942522

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

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DEC 03 2003

The drawing(s) filed (insert date) 8/29/01 are:

- A. approved by the Draftsperson under 37 CFR 1.84 or 1.152.
B. objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. drawings are required.

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1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).
 Color drawings are not acceptable until petition is granted. Fig(s)
 Pencil and non black ink not permitted. Fig(s)

2. PHOTOGRAPHS. 37 CFR 1.84(b)
 1 full-tone set is required. Fig(s)
 Photographs may not be mounted. 37 CFR 1.84(e)
 Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)
 Poor quality (half-tone). Fig(s)

3. TYPE OF PAPER. 37 CFR 1.84(c)
 Paper not flexible, strong, white, and durable. Fig(s)
 Erasures, alterations, overwritings, interlineations, folds, copy machine marks not accepted. Fig(s)

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:
21.0 cm by 29.7 cm (DIN size A4) or
21.6cm by 27.9cm (8 1/2x 11 inches)
 All drawing sheets not the same size.
 Sheet(s)
 Drawings sheets not an acceptable size. Fig(s)

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:
Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm
 Margins not acceptable. Fig(s)
 Top (T) Left (L)
 Right (R) Bottom (B)

6. VIEWS. 37 CFR 1.84(h)
REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig. 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.
 Views not labeled separately or properly. Fig(s)

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)
 Sectional designation should be noted with Arabic or Roman numbers. Fig(s)

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)
 Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)

9. SCALE. 37 CFR 1.84(k)
 Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)
 Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s)

11. SHADING. 37 CFR 1.84(m)
 Solid black areas pale. Fig(s)
 Solid black shading not permitted. Fig(s)

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)
 Numbers and reference characters not plain and legible. Fig(s)
 Figure legends are poor. Fig(s)

 Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)
 English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)

 Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)

13. LEAD LINES. 37 CFR 1.84(q)
 Lead lines missing. Fig(s)

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)
 Sheets not numbered consecutively, and in Arabic numerals beginning with number 1. Sheet(s)

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)
 Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)

16. DESIGN DRAWINGS. 37 CFR 1.152
 Surface shading shown not appropriate. Fig(s)
 Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)

COMMENTS:

Reviewer

Date 11/14/03

If you have questions, call (703) 305-8404.

Attachment to Paper No.